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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ESTATE OF ROGER D. :
OWENSBY JR., et al., :
: Plaintiffs, :
vs. : Case No. 01-CV-769
: (Judge S. A. Spiegel)
CITY OF CINCINNATI, :
et al., :
: Defendants. :

Deposition of ROGER OWENSBY SENIOR, a
plaintiff herein, called by the defendants for
cross-examination, pursuant to the Federal Rules of
Civil Procedure, taken before me, Wendy Davies
Welsh, a Registered Diplomate Reporter and Notary
Public in and for the State of Ohio, at the offices
of Helmer, Martins & Morgan Co. LPA, 1900 Fourth &
Walnut Centre, 105 East Fourth Street, Cincinnati,
Ohio, on Friday, November 21, 2003, at 10:44 a.m.

ORIGINAL

10:57:26 1 A. '97.

10:57:28 2 Q. When was it that Roger moved out of the
10:57:39 3 home?

10:57:40 4 A. He never really moved out of the home.

10:57:43 5 Q. All right. He went into the service; is
10:57:47 6 that right?

10:57:47 7 A. Correct.

10:57:47 8 Q. And then he got out of the service in '98.

10:57:52 9 A. Correct.

10:57:52 10 Q. Is that right?

10:57:53 11 A. Yes.

10:57:53 12 Q. After he got out of the service in '98 --

10:57:58 13 A. Okay.

10:57:58 14 Q. -- when was it that he moved out of the
10:58:02 15 home?

10:58:02 16 A. I'll say the first part of '99 he moved
10:58:19 17 out.

10:58:19 18 Q. Where did he go?

10:58:19 19 A. First he went to English Woods here in
10:58:24 20 Cincinnati. Then he moved over to the area where he
10:58:29 21 got killed at. He lived over there for a while.

10:58:33 22 Q. Where is that? I don't know where that
10:58:35 23 is.

10:58:35 24 A. That's -- what do they call that area? I

10:58:41 1 just know Seymour Avenue. Off of Seymour Avenue in
10:58:45 2 Cincinnati.

10:58:45 3 Q. Did you ever go visit him off of Seymour
10:58:49 4 Avenue in Cincinnati?

10:58:50 5 A. Yes.

10:58:50 6 Q. Where was it?

10:58:52 7 A. I forget the name of the apartments,
10:58:55 8 because it's like a project thing. It's two
10:58:59 9 separate -- Golf Manor. They got the -- Huntington
10:59:05 10 Meadows.

10:59:05 11 Q. What was that?

10:59:06 12 A. Huntington Meadows.

10:59:06 13 Q. Huntington Meadows?

10:59:06 14 A. Right. Park that's over there.

10:59:11 15 Q. So what was the circumstance or what were
10:59:15 16 the circumstances of Roger moving out of Montevista?

10:59:22 17 A. Okay. At one point I had Roger, Shawn,
10:59:33 18 two nephews, grown, in my house. I got tired of
10:59:41 19 going to work in the morning, they're in the bed, I
10:59:46 20 come home from work, they're in the bed. So I gave
10:59:52 21 them an ultimatum about nine months after they all
10:59:57 22 were there. I said you got three months: one month
11:00:01 23 to find you a job, another month to save up enough
11:00:06 24 money, the third month you're gone.

11:00:07 1 Q. Did they strike out?

11:00:09 2 A. No, they did it in better time. In a
11:00:13 3 month and a half they all got together, got them an
11:00:17 4 apartment, they moved out.

11:00:18 5 Q. Who were the two nephews?

11:00:20 6 A. One we call Man. That's by my wife's
11:00:29 7 oldest sister.

11:00:30 8 Q. Man?

11:00:31 9 A. We call him Man. That's all I've ever
11:00:34 10 called him. Douglas. His nickname is Man. His
11:00:38 11 name is Douglas Ray.

11:00:40 12 Q. R-A-Y?

11:00:42 13 A. Yes.

11:00:42 14 Q. His nickname's Man?

11:00:45 15 A. Right.

11:00:45 16 Q. How old was he?

11:00:46 17 A. Oh, let's see. He's older than -- about
11:00:52 18 31.

11:00:52 19 Q. Okay.

11:00:52 20 A. And then I forget the other one. They
11:01:04 21 were all, you know, cousins, I mean, her sister's
11:01:08 22 boys. They was all around the same age, in a row.

11:01:11 23 Q. Can you remember the other fellow's name?

11:01:13 24 A. Man -- I can't remember offhand.

11:01:23 1 Q. Nickname?

11:01:23 2 A. I called him Get Out.

11:01:31 3 Q. Why did you call him Get Out?

11:01:33 4 A. Because every time I come home I'd tell
11:01:36 5 him to get out. Got to be a habit. I thought that
11:01:40 6 was his name after a while.

11:01:43 7 Q. Did Shawn and Junior get this apartment
11:01:57 8 at -- where did you say it was?

11:01:57 9 A. Which one?

11:01:58 10 Q. The first one.

11:02:00 11 A. In English Woods?

11:02:01 12 Q. Yes.

11:02:02 13 A. Yes, they were together.

11:02:03 14 Q. Did Get Out and Man go with them?

11:02:10 15 A. No. One went to New York and the other
11:02:15 16 one went and stayed with a girlfriend.

11:02:17 17 Q. When do you think that was?

11:02:19 18 A. Sometime in '99.

11:02:22 19 Q. When? Can you give me a better idea?

11:02:25 20 A. Toward the end of '99. I would say
11:02:33 21 October, November.

11:02:33 22 Q. Where was Shawn working at the time?

11:02:38 23 A. They were doing these temporary jobs, so
11:02:46 24 they were all over the place.

11:02:46 1 Q. What temporary jobs did Shawn have?

11:02:52 2 A. I know they had some construction. As a
11:03:00 3 matter of fact, he got on with a union. He was
11:03:05 4 making pretty good money.

11:03:06 5 Q. Which union?

11:03:07 6 A. I'm not quite sure. Some labor union. I
11:03:11 7 used to visit him when they was building up some of
11:03:16 8 these buildings downtown here. And Roger, like I
11:03:21 9 said, those temp jobs and stuff like that.

11:03:24 10 Q. Can you give me any jobs that Roger had
11:03:27 11 after he moved out in '99?

11:03:29 12 A. I know the construction he had, like I
11:03:33 13 said. Name of the company, I can't tell you. I
11:03:35 14 know he worked at some kind of construction. He
11:03:37 15 also worked at some factory. And there was one out
11:03:52 16 in Springfield, because I used to take him out
11:04:05 17 there. Some kind of warehouse. Some kind of
11:04:05 18 warehouse. All I did was drop him off out there,
11:04:05 19 so...

11:04:05 20 Q. Actually, my question, I wanted to make it
11:04:07 21 more inclusive. From the time that he came home in
11:04:12 22 '98 until the time he died, did he have any
11:04:15 23 full-time job that you can tell me about?

11:04:17 24 MR. MARTINS: Objection.

11:04:19 1 A. No.

11:04:19 2 Q. Did Shawn have any full-time job that you
11:04:23 3 can tell me about?

11:04:24 4 MR. MARTINS: Objection.

11:04:25 5 A. No.

11:04:29 6 Q. As far as Roger is concerned, you are the
11:04:40 7 administrator of the estate; is that right?

11:04:41 8 A. Correct.

11:04:42 9 Q. All right. And I assume that the estate
11:04:44 10 was opened so that this lawsuit could be prosecuted;
11:04:49 11 is that right?

11:04:50 12 MR. MARTINS: Objection.

11:04:51 13 A. Correct.

11:04:51 14 Q. I also assume that Roger Jr. probably
11:04:55 15 didn't have anything in the estate; is that right?

11:04:58 16 A. What you --

11:05:02 17 Q. What I mean by that is there are no assets
11:05:05 18 of the estate itself?

11:05:05 19 A. No.

11:05:07 20 Q. All right. Let me just ask you this
11:05:13 21 question: When we got in this case, you answered
11:05:16 22 some questions that we asked and responded to some
11:05:19 23 documents that we asked. And what I did was I asked
11:05:24 24 for evidence of Roger's jobs and his tax returns.

11:05:30 1 And there was a tax return, I think it was
11:05:34 2 a '97 return that was given to me by your counsel,
11:05:38 3 and also some W-2s from the Army. Do you know any
11:05:49 4 one single W-2 or any tax returns that Roger may
11:05:54 5 have filed after '97?

11:05:58 6 A. No.

11:06:03 7 Q. How about W-2s? Anything that you can
11:06:07 8 come up with? I'm just trying to verify his
11:06:10 9 part-time jobs after '98.

11:06:13 10 A. I know he received them, his W-2s.
11:06:18 11 Whether he filed them or not, I could not tell you.
11:06:24 12 Because they came to the house. A couple times I
11:06:26 13 opened them. I thought it was mine.

11:06:28 14 Q. How much money did you have to give Roger
11:06:41 15 to support him after '98?

11:06:44 16 MR. MARTINS: Objection.

11:06:45 17 You may answer.

11:06:46 18 A. That varied. For a while there when they
11:06:50 19 were -- I paid their rent for about four or five
11:06:57 20 months, maybe up to six months.

11:06:59 21 Q. What was their rent? How much?

11:07:06 22 A. 550.

11:07:06 23 Q. A month?

11:07:07 24 A. Yes.

11:07:08 1 Q. Other than the rent that you just
11:07:17 2 mentioned to me, can you give me a reasonable
11:07:20 3 estimate? Did you have to give him spending money
11:07:23 4 and stuff like that?

11:07:23 5 A. Every once in a while I gave him some
11:07:27 6 money.

11:07:27 7 Q. If you were to estimate on a monthly
11:07:29 8 basis, other than the rent again, the monies that
11:07:32 9 you gave Roger, what would your estimate be?

11:07:40 10 A. What are you talking about, on a monthly
11:07:42 11 basis?

11:07:42 12 Q. Yeah. Monthly, weekly. I don't care what
11:07:46 13 you do, just so I get an idea.

11:07:49 14 MR. MARTINS: Objection.

11:07:50 15 You may answer if you can.

11:07:51 16 A. I would say about maybe 150, 200 a month.

11:07:58 17 Q. Did Roger have any money to support
11:08:09 18 Myiesha?

11:08:09 19 A. To the best of my knowledge, he paid what
11:08:13 20 he was supposed to have been paying. That's the
11:08:15 21 best I can tell you.

11:08:16 22 Q. Do you know if there was a support order?

11:08:18 23 A. I've never seen it, but when we were in
11:08:24 24 Germany he received a letter from the child support.

11:08:34 1 And rather than them garnishing his check or taking
11:08:38 2 it out, he voluntarily went down and had it taken
11:08:42 3 out.

11:08:42 4 Q. From the child support out of Hamilton
11:08:44 5 County?

11:08:44 6 A. Yes. Because we talked about it.

11:08:50 7 Q. So then, at least to your knowledge, there
11:08:54 8 must have been a support order somewhere along the
11:08:57 9 line?

11:08:57 10 A. No, I don't think it was a support order
11:08:58 11 ordered him to pay. It was something to let him
11:09:02 12 know he needed to pay child support, but it wasn't
11:09:06 13 ordered.

11:09:06 14 Q. We can check that out.

11:09:07 15 A. To the best of my knowledge.

11:09:09 16 Q. What was Roger's relationship with
11:09:14 17 Myiesha, in your opinion?

11:09:16 18 A. Great. They went places together, movies,
11:09:23 19 zoo. He had birthday parties for her. As much
11:09:28 20 time -- he spent a lot of time with her.

11:09:30 21 Q. Did he?

11:09:30 22 A. Yes.

11:09:31 23 Q. Did he come over to your house -- excuse
11:09:34 24 me. Did Myiesha come over to your house a lot?

11:09:37 1 A. Yes.

11:09:38 2 Q. What was your relationship with Donna
11:09:44 3 Todd, the mother?

11:09:44 4 A. Excellent. Great. Talked daily.

11:09:48 5 Q. So that's always been good?

11:09:52 6 A. Yes.

11:09:53 7 Q. Did you end up having to support either
11:09:58 8 Myiesha or Donna Todd at all?

11:10:00 9 A. No.

11:10:02 10 Q. The answer's no?

11:10:03 11 A. "No."

11:10:04 12 Q. Donna's -- I'm going to ask her questions
11:10:07 13 later, but she supports herself?

11:10:09 14 A. Yes, to the best of my knowledge.

11:10:12 15 MR. HARDIN: Could we just take one quick
11:10:15 16 break, just one second?

11:10:17 17 MR. MARTINS: Sure.

11:10:18 18 Well, it's your deposition.

11:10:22 19 MR. FREUND: Want to talk for a second?

11:10:24 20 MR. HARDIN: Yes.

11:10:25 21 (Recess taken: 11:10 a.m. - 11:16 a.m.)

11:16:27 22 BY MR. FREUND:

11:16:27 23 Q. Before Junior left the military, did you
11:16:40 24 have any discussion with him about him leaving?

11:16:43 1 MR. MARTINS: Objection.

11:16:46 2 A. No.

11:16:46 3 Q. Did you recommend that he stay in the
11:16:48 4 military?

11:16:48 5 A. We did talk about it before -- I was gone
11:16:54 6 already.

11:16:54 7 Q. Right. Did he want to stay in the
11:16:58 8 military, to your knowledge?

11:17:07 9 A. When I last talked to him, he wanted to.

11:17:07 10 Q. Do you know why he left the military?

11:17:07 11 A. I think what he -- some of the things we
11:17:19 12 saw in Bosnia really upset him and he wanted out.
11:17:26 13 He said -- last I heard -- I know he had always
11:17:30 14 talked about some of the things we had seen when we
11:17:33 15 first went into Bosnia, and it upset him. So that's
11:17:43 16 all I knew about that.

11:17:46 17 I'll tell you one. We went into this
11:17:50 18 small town Christmas Day '95 and we was going to use
11:17:59 19 this farm as a command center. And they sent us
11:18:03 20 over to check out the barn, and the whole family the
11:18:10 21 farm belonged to was hanging up in the rafters, even
11:18:12 22 from a little baby. They had killed them. And he
11:18:20 23 was there, he saw that, and that upset him.

11:18:24 24 Q. Did you actually serve together?

11:18:28 1 A. Not in the same unit, but we was in the
11:18:31 2 same battalion.

11:18:34 3 Q. So you would see each other frequently?

11:18:36 4 A. Yes.

11:18:37 5 Q. How would you describe your relationship
11:18:44 6 with Roger Jr. after he got out of the service?

11:18:54 7 A. We were close. We were doing things
11:19:05 8 together. We were just close.

11:19:12 9 Q. Tell me about some of the things that you
11:19:14 10 would do together.

11:19:15 11 A. I like to get my hands dirty. When I
11:19:18 12 needed help, like working on people's cars or my
11:19:22 13 cars, I called him. Or he's there, I'd say, Come
11:19:27 14 help me. He may not come when he first tell you
11:19:31 15 he's going to come, but he will come.

11:19:32 16 Q. I take it that he was not the most
11:19:36 17 dependable person as far as being timely?

11:19:40 18 MR. MARTINS: Objection.

11:19:40 19 You may answer.

11:19:43 20 A. I wouldn't put it just on him. He was
11:19:48 21 just an active young man.

11:19:49 22 Q. Did he have a lot of lady friends?

11:19:55 23 MR. MARTINS: Objection.

11:19:57 24 You may answer.

11:19:58 1 A. No more than normal. He's a handsome
11:20:05 2 young man.

11:20:06 3 Q. After he came back from the service, was
11:20:11 4 he changed, his personality?

11:20:15 5 A. He was more -- life -- to me, life meant
11:20:29 6 more to him, it seemed to me. He was taking things
11:20:33 7 a little bit more serious than he was before.
11:20:34 8 Because I had talked to him time and time again
11:20:43 9 about, you know, accomplishing something in his
11:20:46 10 life, and he finally put his finger down on what he
11:20:51 11 wanted to do, at least try to do. I think he was
11:20:54 12 more serious once he came out.

11:20:56 13 Q. Was he in school at the time that he died?

11:20:58 14 A. He was -- I know he had attended --

11:21:05 15 Q. Southern Ohio College?

11:21:07 16 A. -- Southern Ohio, and he was planning on
11:21:09 17 going back.

11:21:10 18 Q. Do you know why he wasn't in school at the
11:21:13 19 time that he died?

11:21:15 20 A. Funds. He had stopped to build up some
11:21:21 21 more funds. Because he had to pay for this school.
11:21:27 22 I mean, I help out as much as I can, but I can't --
11:21:31 23 I mean, I'm not going to take away from my home
11:21:34 24 fully just to get him through school.

11:21:36 1 Q. He was borrowing money, wasn't he?

11:21:40 2 A. Borrowing? No. I gave it to him.

11:21:42 3 Q. No, I mean for school.

11:21:44 4 A. Oh, yeah.

11:21:46 5 Q. How many quarters or semesters did he go
11:21:49 6 to school?

11:21:49 7 A. I'm not quite sure on that.

11:21:50 8 Q. Did he quit school or did he fail or what
11:21:53 9 happened?

11:21:53 10 A. I'm not quite sure on that either.

11:21:58 11 Q. He was living at Huntington Meadows at the
11:22:03 12 time of his death?

11:22:06 13 A. No, he was back --

11:22:05 14 MR. MARTINS: Objection.

11:22:09 15 Q. Go ahead.

11:22:09 16 A. He was back home.

11:22:10 17 Q. How much did he stay back home?

11:22:14 18 A. Well, all his personal stuff was there at
11:22:17 19 the house. He did go out, you know, with girls,
11:22:22 20 with girlfriends and stay with them days on end, but
11:22:28 21 he always came home.

11:22:30 22 Q. Did he have girlfriends who lived at
11:22:33 23 Huntington Meadows?

11:22:33 24 A. I'm not sure.

12:10:21 1 MR. MARTINS: This is to Myiesha?

12:10:24 2 MR. FREUND: Yes.

12:10:25 3 MR. MARTINS: Objection. Speculation.

12:10:31 4 Answer if you can.

12:10:32 5 A. I couldn't really say. I never actually
12:10:41 6 counted. I'd just give it to her.

12:10:44 7 Q. Let me ask you the question this way: Did
12:10:49 8 Roger support himself?

12:10:49 9 A. Mostly, yes, I think so.

12:10:53 10 Q. Did he support anybody else?

12:10:59 11 A. Myiesha.

12:10:59 12 Q. How?

12:11:03 13 A. He had funds. He worked at these
12:11:07 14 temporary jobs. He would give her money, give her
12:11:11 15 mother money.

12:11:12 16 Q. Cash?

12:11:14 17 A. I think so.

12:11:14 18 Q. Did he have a checking account?

12:11:18 19 A. Not that I'm aware of.

12:11:19 20 Q. Do you know of any evidence, other than --
12:11:28 21 we'll have to look if there's Bureau of Support
12:11:31 22 records. Do you know of any evidence, documents or
12:11:37 23 written evidence that would prove that Roger Jr.
12:11:43 24 gave one penny to support Myiesha?

12:20:24 1 day I die.

12:20:25 2 Q. One other question. When you refer to the
12:20:29 3 prosecutor, are you talking about the County?

12:20:31 4 A. Mike Allen.

12:20:33 5 MR. FREUND: I don't have any other
12:20:38 6 questions. And thank you for sharing that with
12:20:40 7 me.

12:20:40 8 MR. MARTINS: Signature.

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ROGER OWENSBY SENIOR

(Deposition concluded at 12:20 p.m.)